

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No.758 of 1995

with

CIVIL REVISION APPLICATION No.760 of 1995

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For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

TARLA REKHABEN W/O RO VORA HEIRS OF RAMNIKLAL O. VORA

Versus

KANJIBHAI DHIRUBHAI BABAR

Appearance:

MR HARESH H PATEL for Petitioners

RULE SERVED for Respondent No. 1

MR DARSHAN M PARIKH for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/11/98

COMMON ORAL JUDGEMENT :

Shri Haresh H. Patel for the petitioners.

Shri Darshan M. Parikh for respondent.

Heard learned counsel for the parties. It is not in dispute that the interim compensation as per the unamended provisions of sec.140 of the Motor Vehicles Act, 1988 has been awarded by the Motor Accident Claims Tribunal (Main) Rajkot, District Rajkot ("the Tribunal"

for brevity) to the claimant/ applicant/ petitioners. The Act aforesaid has been amended with effect from 14.11.1994. Under the amended provisions of sec.140 of the said Act, interim compensation is of Rs.25,000/- for permanent disablement; Rs.50,000/- for death.

2. After amendment of the said provision, the claimant/ petitioners moved application before the learned Tribunal for enhancement of amount of interim compensation awarded accordingly. Under the impugned orders the Tribunal has rejected that application. A view has been taken by the Tribunal that this amended provision of sec.140 of the Act, 1988 have no retrospective effect. The learned counsel for the petitioner contended that these amended provisions of sec.140 of the Act of 1988 have retrospective effect. It is only the matter of awarding of interim compensation which had nothing to do with the ultimate award which is to be made as per the entitlement of the claimants. Whatever compensation which the Tribunal find just and proper will be awarded finally. It is also not in dispute that from that amount of final award whatever amount paid to the claimants by way of interim compensation has to be deducted. In view of this position of law, it cannot be said that in case the order of the Tribunal impugned in this Civil Revision Application is allowed to stand it will occasion in failure of justice and will cause injury to the claimant/ petitioners. Only on this ground, no interference of this Court with the order impugned in this Civil Revision Application is called for under sec.115 of the Code of Civil Procedure, 1908.

3. In the result both the Civil Revision Applications fail and the same are dismissed. Rule is discharged. No order as to costs.

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